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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,604	05/10/2001	Kirk Fritsche	AUS920010082US1	4902
35525	7590	08/13/2004	EXAMINER	
IBM CORP (YA)			LUU, LE HIEN	
C/O YEE & ASSOCIATES PC				
P.O. BOX 802333			ART UNIT	
DALLAS, TX 75380			PAPER NUMBER	
			2141	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/852,604	Applicant(s) FRITSCH ET AL.	
	Examiner Le H Luu	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/10/01 - 08/14/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/14/01</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1-36 are presented for examination.
2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1, 8, 12, and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, "the client" lacks positive antecedent basis. For purpose of examination Examiner assume applicant meant "the client service".

As to claim 8, applicant claims "wherein the response is returned immediately upon receiving the response" is indefinite and confusing. For purpose of examination Examiner assume applicant meant "wherein another response is returned immediately upon receiving the response from the client service".

As to claims 12 and 30 "the server service" lacks positive antecedent basis. For purpose of examination Examiner assume applicant meant "server service".

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by

Art Unit: 2141

another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-36 are rejected under 35 U.S.C. § 102(e) as being anticipated by Van Watermulen et al. (Watermulen) patent no. 6,604,046.

6. As to claim 1, Watermulen teaches the invention substantially as claimed, including a method in a data processing system for accessing a client service, the method comprising:

managing a pool of connections to the client service (col. 4 line 61 - col. 5 line 8);

responsive to a request from a user application from a plurality of user applications assigning a client service from the pool of client service instances (col. 4 line 61 - col. 5 line 27);

invoking the request on the client service (col. 5 line 9 - 41); and

responsive to receiving a response from the client service, returning the result to the user application (col. 5 lines 55).

7. As to claims 2-3, Watermulen teaches freeing the client service back to the pool after invoking the request on the client service; waiting for the response from the client service after the client service has been invoked; and responsive to a timeout occurring while waiting for the response, returning a response to the user indicating that the timeout has occurred (col. 4 line 59 - col. 5 line 27).

8. As to claims 4-6 and 12, Watermulen teaches the user application is a client application; the client service is an application programming interface to a server process; the server process and server service are located on a remote data processing system (Figures 1-2).

7. The method of claim 7, wherein the pool of client services is used to access report services on a server (col. 4 line 61 - col. 5 line 8).

9. As to claim 8-11, Watermulen teaches another response is returned immediately upon receiving the response from the client service; a error message is returned to the user application after a period of time passes without receiving the response; placing the request in a queue if there are no free client services within the pool of client services; a particular client service instance only accepts and processes one request at a time (col. 3 lines 6-21; col. 4 line 61 - col. 5 line 27; col. 11 line 34; col. 12 line 49)

10. Claims 13-36 have similar limitations as claims 1-12; therefore, they are rejected under the same rationale.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu, whose telephone number is (703) 305-9650. The examiner can normally be reached Monday through Friday from 7:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7240.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

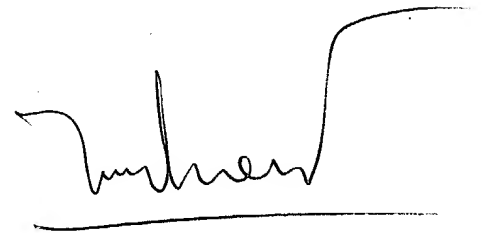
or faxed to:

(703) 872-9306, (for formal communications; please mark
"EXPEDITED PROCEDURE").

Or:

(703) 872-9306 (for informal or draft communications, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).

A handwritten signature in black ink, appearing to read 'Le Hien Luu', written over a horizontal line.

LE HIEN LUU
PRIMARY EXAMINER

August 10, 2004